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Legal Department, DL429
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ATTORNEY DOCKET NO. 10021070-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): William G. Chesk

Serial No.: 10/603,903

Examiner: Katina M. Wilson

Filing Date: June 25, 2003

Group Art Unit: 2856

Title: Apparatus and Methods for Sensing Fluid Levels

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- ☒ Response/Amendment ☐ Petition to extend time to respond
☐ New fee as calculated below ☐ Supplemental Declaration
☐ No additional fee (Address envelope to "Mail Stop Amendments")
☐ Other: (Fee \$ _____)

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X 50	\$ 0
INDEP. CLAIMS		MINUS		= 0	X 200	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ 360	\$ 0
EXTENSION FEE	1 ST MONTH 120.00 <input type="checkbox"/>	2 ND MONTH 450.00 <input type="checkbox"/>	3 RD MONTH 1020.00 <input type="checkbox"/>	4 TH MONTH 1590.00 <input type="checkbox"/>		\$ 0
OTHER FEES						\$ 0
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$ 0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-1078 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this transmittal letter is enclosed.

"

Respectfully submitted,

William G. Chesk

By

Theodore J. Leitereg

Theodore J. Leitereg
Attorney/Agent for Applicant(s)

I hereby certify that this correspondence is being Deposited with the United States Postal Service as First class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Date of Deposit: February 9, 2005

Typed Name: Theodore J. Leitereg

Signature:

Theodore J. Leitereg

Reg. No. 28,319

Date: February 9, 2005

Telephone No. 650-485-5999



CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450, on February 9, 2005.

Signature

Theodore J. Leitereg

Date

2/9/05

Name: Theodore J. Leitereg

PATENTS

Attorney Docket No. 10021070-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
William G. Chesk

Serial No. 10/603,903

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Examiner: Katina M. Wilson

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Response to Restriction Requirement

This paper is responsive to the Restriction Requirement in the Office Action dated January 25, 2005, from the U.S. Patent and Trademark Office in the above-identified patent application.

Restriction was required under 35 U.S.C. §121 to one of the following inventions:

Group I – Claims 1-11, drawn to a level sensing device/method, classified in class 73, subclass 304R.

Group II – Claims 12-20, drawn to a method for synthesizing an array of biopolymers with a dispensing system, classified in class 73, subclass 863.32.

As required by the Restriction Requirement, Applicant elects the invention of Group I, Claims 1-11, drawn to a level sensing device/method.

In the Restriction Requirement, a determination was made that the inventions of Groups I and II are distinct each from the other. According to M.P.E.P. 802.01 the term "distinct" means that two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (emphasis in original). Accordingly, in making the restriction requirement, the Office Action is acknowledging at least implicitly that the inventions of the aforementioned groups are separately patentable, i.e., novel and unobvious, over one other. If this were not the case, then the restriction requirement would not be proper.

Furthermore, it follows from the above that art indicating that the invention of one of the groups is known or would have been obvious would not extend to a holding that the invention of the other group is known or would have been obvious. In particular, art indicating that a method for synthesizing an array of biopolymers that utilizes a method of sensing the level of liquid reagent as set forth in Claim 12 is known or would have been obvious would not render known or obvious the methods and apparatus of Claims 1-11. Again, if this were not the case, then the restriction requirement would not be proper.

Respectfully submitted,



Theodore J. Leitereg
Attorney for Applicant
Reg. No. 28,319

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